

Meeting: Zoom Code Compliance Hearing

Date: Tuesday, September 12, 2023

Location: Islamorada, Village of Islands Administration Center, Third Floor

In Attendance : Michael Pawelczyk - Hearing Officer
Jose Arango – Village Attorney – Weiss Serota
Carlota de la Sierra – Senior Code Compliance Officer
Gerardo Gonzalez - Code Compliance Officer
Paul Minning - Code Compliance Officer
Jennifer DeBoisbriand – Director of Planning
Anita Muxo – Recording Secretary
Nick Mulick, Esq.
Ty Harris, Esq.
Justin Andrews (Stoky 100 Iroquois Drive)
Dr. Matthew Davis

Call To Order: 2:01 PM

Hearing Officer Michael Pawelczyk reviewed the hearing procedures.

At 9:52 minutes into the meeting Senior Code Compliance Officer Carlota de la Sierra stated that both Case No. CERENT20230000192–Oceanside Partners, 210 Palm Avenue and Case No. CERENT20230000154 – Erika Rodriguez are now in compliance and have been removed from the agenda.

At 17:52 minutes into the meeting, Code Compliance Hearing on Case No. CEBDG20200000227. Stoky - 100 Iroquois Drive began.

Senior Code Compliance Officer Carlota de la Sierra presents that on Thursday, July 2, 2020, unpermitted work was documented at this location for spalling repairs. A Notice of Violation was issued and sent certified mail/return receipt on the same day. Violation: Section 6-61(a) of the Village Code entitled "Work requiring building permit".

Corrective Action: Apply for and obtain an After-the-Fact Building Permit, request and pass required inspections in order to close out the permit and code case. A Notice of Hearing was sent August 18, 2023 - Posting Notice and Affidavit of Posting completed on the same day. After-the-Fact permit application was submitted on August 12, 2020, issued on August 20, 2020, and currently Permit #202000957 is in "Expired" status pending Building Final inspection.

Mr. Andrews indicated that he needs a little while longer to come into compliance.

The Hearing Officer stated that corrective action includes renewing the permit and passing required inspections within 6 months. If work is not finalized on the 181st day, fines will be imposed. The Property Owner is required to pay an administrative fee of \$125.00.

At 23:22 minutes into the hearing Compliance Hearing on Case No. CEBDGC20230000115 – 74560 Overseas Highway – 74560 SBH, LLC began.

Senior Code Compliance Officer Carlota de la Sierra presents that on Wednesday, April 5, 2023, seven (7) illegal dwelling units and unpermitted work, including plumbing, electrical and mechanical was documented at this property. A Notice of Violation was issued and sent certified mail/return receipt on April 5, 2023. Violations: Section 6-61(a) of the Village Code entitled "Work requiring building permit" which provides that permits are required as provided in the Florida Building Code Corrective Action: Apply for and obtain an After-the-Fact permit for all unpermitted work to include plumbing, electrical and mechanical for seven illegal dwelling units - if unable to obtain the ATF permit, a permit for dwelling units to be demolished must be obtained and building must be restored to original state as listed on Certificate of Occupancy - One dwelling unit, office, and warehouse. Section 30-219(a)(1) of the Village Code entitled "Building permits and certificates of occupancy" which provides that all applications for building permits shall be accompanied by a site plan application. Corrective Action includes submit site plan application to Planning Director, apply for and obtain an After-the-Fact permit for all unpermitted work to include plumbing, electrical and mechanical for seven illegal dwelling units - if unable to obtain the ATF permit, a permit for dwelling units to be demolished must be obtained and building must be restored to original state as listed on Certificate of Occupancy - One dwelling unit, office, and warehouse. Section 30-219(b)(1) of the Village Code entitled "Building permits and certificates of occupancy" which provides that in no event shall any building or structure be occupied or used until a Certificate of Occupancy is issued by the Building Official or Designee.

Ty Harris, Esq. representing the Property Owner said that the Property Owner is considering converting the units into deed restricted affordable housing units. Mr. Harris stated that he plans to submit a site plan application in approximately 6 months at the same time he thinks the affordable housing allocations may be available.

Hearing Officer Michael Pawelczyk will extend the order for another 180 days. The Hearing Officer asked Mr. Harris to keep in touch with Senior Code Compliance Officer Carlota de la Sierra. At the 4 months' time period, the Hearing Officer asked Mr. Harris to come back with a request to extend. Mr. Harris indicated he will submit a stipulated order regarding future action. The Property Owner is required to pay an administrative fee of \$125.00. If the property does not comply with the suggested action a fine of \$200.00 per day will be imposed.

At 39.25 minutes into the recording, Compliance Hearing on Case No. CERENT20230000117 -124 - 74560 Overseas Highway, 74560 SBH LLC began.

Senior Code Compliance Officer Carlota de la Sierra presents on Wednesday, April 5, 2023 illegal short-term vacation rental advertisements on AirBNB were documented; Seven (7) individual advertisements for each of the seven (7) illegal dwelling units including advertisement on Shore74.com listing all seven units. Citations were issued and sent certified mail/return receipt on April 10, 2023.

Each Citation lists the following Violations: Section 30-1295(a) of the Village Code entitled "Annual registration of vacation rental uses" Section 30-1296(a) of the Village Code entitled "Vacation rental license regulations" Section 30-1297(5) of the Village Code entitled "Vacation rental use and occupancy restrictions" regarding maximum occupancy load Section 30-1297(14) of the Village Code entitled "Vacation rental use and occupancy restrictions" regarding advertising of vacation rental units.

Corrective Action: Correct the violation(s) on or before 04/24/2023 and pay the fines - Cease vacation rental for illegal dwelling units. *Penthouse is the only legal dwelling* - Corrective Action: Correct the violation(s) on or before 04/24/2023, Change advertisement, reservations and booking to minimum stays of 28 nights or longer, Register, apply for and obtain a valid Vacation Rental license; if unable to obtain a Vacation Rental license from Islamorada cease short- term vacation rental; AND Pay fine Code Case #CERENT20230000117 has a fine amount of \$1,600.00 - all subsequent Cases from 118 through 124 have a fine amount of \$2,000.00 each. On or about June 2, 2023, AirBNB ads appeared to have been removed and are listed as "Not Live"; however; Citation Fine amounts have not been paid. Notice of Hearing sent August 21, 2023 - Posting Notice and Affidavit of Posting completed same day.

Code Compliance Officer Carlota de la Sierra stated that the illegal ads have been removed. Attorney for the Property Owner Ty Harris said there is no evidence that the rentals ever actually occurred. Mr. Harris indicated there were no witnesses or anything to show that money changed hands. Mr. Harris would like for the Village to consider a motion to dismiss. The homeowner wants further proof that rentals occurred. Mr. Harris will forward a motion to dismiss to the Village Attorney. These cases will be postponed to the next hearing. The Hearing Officer stated that the advertisements presented are circumstantial.

Code Compliance Case No. CERENT20230000154 - Erika S. Rodriguez, came into compliance at the last moment and has been deleted from the agenda.

At 54:27 minutes into the hearing Code Compliance Case No. CEBDG2023000026 – 117 Court Contessa – Matthew and Brenda Davis began.

Code Enforcement Officer Gerardo Gonzalez presents on Wednesday, February 1, 2023, IRM group was doing spalling repair on property without a valid permit issued. The property was red tagged the same day. Notice of violation sent/mail return receipt on March 13, 2023, with compliance date of March 24, 2023. Violation Section 6-61(a) of the Village Code entitled "Work requiring building permit" which provides that permits are required as provided in the Florida Building Code, and for the following work: Any owner or authorized agent who

intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any required impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

Corrective actions would be to apply for and obtain ATF permit for spalling repair, pass inspection to close out case. On July 19, 2023, the case was assigned to a hearing and posted the same day. Notice of hearing was sent via certified same day. Code case was moved to September 12, 2023. Notice of hearing sent via certified mail and posted August 29, 2023, Property posted same day. As of August 31, 2023, neither the owner nor the contractor have contacted this office regarding the code violation or submitted any permits.

Dr. Davis indicated he was having a hard time getting a response from the Contractor. His initial handyman was doing the work without a permit and Dr. Davis learned through a neighbor the property was red tagged. Dr. Davis hired Farfan to do the job and pull the permit. Dr. Davis cannot get a call back from Farfan now. The Hearing Officer will grant 180 days to correct the violation. After 180 days the Property Owner will be fined \$150.00 per day. An administrative fee was imposed.

At 1:08 hours into the meeting Compliance Case No. CERENT20230000172 and CERENT20300000174 (cases heard together) 174 Gulfview Drive – WMBH LLC c/o John Brador began. Attorney Nick Mulick attended the hearing in person and Property Owner John Brador attended via Zoom.

Code Enforcement Officer Gerardo Gonzalez presents on May 24, 2023, an illegal vacation rental ad was found for this property. The citation was sent certified/mail return receipt on Wednesday, May 24, 2023, with compliance date June 7, 2023. Violation Section 30-1295(a) every owner operating a vacation rental use within the Village shall register the use with the Village during the initial annual registration period which shall be determined by the Director of Planning and Development Services. At the time of initial registration, each owner shall demonstrate to the satisfaction of the Planning and Development Services Director that all necessary state tax, Monroe County tourist development taxes, state licenses and Monroe County occupational licenses have been paid for the year. No vacation rental use may continue unless it has been registered according to this section. Violation Section 30-1296(a) every owner operating a vacation rental use within the Village must initially obtain an active Village vacation rental license for each vacation rental unit subsequent to approved registration and maintain the license during all terms of rental. Violation Section 30-1297(14) all advertising of vacation rental units shall require identification of state and Village license numbers. Any advertising of vacation rental units that are not lawfully licensed by the Village shall constitute a violation of these regulations. Violation Section 30-1297(5) the maximum occupancy load of any vacation rental unit shall not exceed two adults per bedroom (children over six shall be considered adults for purposes of this section), or the lesser of such other maximum occupancy load level as may be set by either the Florida Fire Prevention Code for

the particular residential dwelling unit pursuant to its administration rule making authority or the Village Building Official.

Corrective actions would be to change ad, booking and rental to reflect minimum 28 nights, also maximum occupancy must be changed to 4 persons, since property advertises two bedrooms and pay the \$2000.00 fine on or before 06/07/2023. Ads were changed and/or removed from listing, fines not yet paid. On June 8, 2023, the case was assigned to hearing. Notice of hearing was sent via certified mail on the same day.

Case No. CERENT20230000174 was heard. 174 Gulfview Drive- WMBH LLC – John Brador. Nick Mulick presented on behalf of the Property Owner.

On Wednesday, May 24, 2023, an illegal vacation rental ad was found for this property. Citation sent certified/mail return receipt on Wednesday, May 24, 2023, with compliance date June 7, 2023. Violation Section 30-1295(a) every owner operating a vacation rental use within the Village shall register the use with the Village during the initial annual registration period which shall be determined by the Director of Planning and Development Services. At the time of initial registration, each owner shall demonstrate to the satisfaction of the Planning and Development Services Director that all necessary state tax, Monroe County tourist development taxes, state licenses and Monroe County occupational licenses have been paid for the year. No vacation rental use may continue unless it has been registered according to this section. Violation Section 30-1296(a) every owner operating a vacation rental use within the Village must initially obtain an active Village vacation rental license for each vacation rental unit subsequent to approved registration and maintain the license during all terms of rental. Violation Section 30-1297(14) all advertising of vacation rental units shall require identification of state and Village license numbers. Any advertising of vacation rental units that are not lawfully licensed by the Village shall constitute a violation of these regulations. Violation Section 30-1297(5) the maximum occupancy load of any vacation rental unit shall not exceed two adults per bedroom (children over six shall be considered adults for purposes of this section), or the lesser of such other maximum occupancy load level as may be set by either the Florida Fire Prevention Code for the particular residential dwelling unit pursuant to its administration rule making authority or the Village Building Official.

Corrective actions would be to change ad, booking and rental to reflect minimum 28 nights, also maximum occupancy must be changed to 4 persons, since property advertises two bedrooms and pay the \$2000.00 fine on or before 06/07/2023. Ads were changed and/or removed from listing, fines not yet paid. On June 8, 2023, the case was assigned to a hearing. Notice of hearing was sent via certified same day. On July 10, 2023, the Code case was withdrawn from hearing and postponed to September 12, 2023, per owner lawyer's requests. Notice of hearing sent via certified mail and posted on August 29, 2023.

A motion to dismiss was sent to both the Hearing Officer and Village Attorney from Nick Mulick's office the day before the Hearing. Mr. Mulick stated there were several defects in the citation

including the property owner was not given time to comply. Mr. Mulick asked Village Attorney Jose Arango if they could iron out the details of the notice together. The Village Attorney indicated that the municipalities could conduct their own code enforcement and that has jurisdiction.

Nick Mulick reviewed the violations with the code enforcement office Gerardo Gonzalez and verified that the advertisements were in compliance. Village Attorney Jose Arango questioned Mr. Gonzalez and verified that once a citation is issued there is no way to avoid the fine.

The Hearing officer asked that if the ads were brought into compliance by the due date, why would the owner still have to pay the fine? The Hearing Officer finds that no notice was provided to the Violator and will dismiss both cases.

Case numbers CEBDG20220000123, CEBDG20220000121, CEBDG20220000431 and CERENT20220000433 are now in compliance.

Public Comment: None
Meeting Adjourned: 4:08 PM
Recording Secretary: Anita Muxo